

"Except as otherwise provided in this section, proceedings for compensation under the workers compensation act shall not be maintainable unless notice of the accident, stating the time and place and particulars thereof, and the

name and address of the person injured, is given to the employer within 10 days after the date of the accident, except that actual knowledge of the accident by the employer or the employer's duly authorized agent shall render the giving of such notice unnecessary."

The evidence in the record both supports and contradicts timely notice by claimant to respondent of the accident. The more compelling evidence comes from the claimant indicating notice was given to her supervisor within ten (10) days of the date of injury, satisfying the requirements of K.S.A. 44-520.

The Appeals Board finds that claimant's allegations that notice was given regarding an accident arising out of and in the course of her employment with respondent within ten (10) days of the date of accident is supported by a preponderance of the credible evidence and the award of benefits in claimant's favor by the Administrative Law Judge should be, and is, affirmed.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Order of the Administrative Law Judge Nelsonna Potts Barnes, dated May 3, 1995, is affirmed in all respects.

IT IS SO ORDERED.

Dated this ____ day of August 1995.

BOARD MEMBER _____

BOARD MEMBER _____

BOARD MEMBER _____

c: Roger A. Riedmiller, Wichita, KS
John E. Rees II, Wichita, KS
Nelsonna Potts Barnes, Administrative Law Judge
David Shufelt, Acting Director